

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: PROPULSID
PRODUCTS LIABILITY LITIGATION

MDL NO. 1355

SECTION L

JUDGE FALLON
MAG. JUDGE AFRICK

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER NO. 8

(Defendants' Production of Hard Copy Documents)

The following protocol shall be followed for the format of production of documents existing in hard copy form that are produced by defendants Johnson & Johnson and Janssen Pharmaceutica Inc.:

1. All documents that exist in hard copy form that are responsive to discovery requests or orders shall be produced in electronic image form (in the manner provided herein). Each document's electronic image shall convey the exact same information and image as the original subject document. Documents that present imaging problems shall be promptly

identified and thereafter the parties will attempt to mutually resolve the problem amongst themselves. If the parties are unable to mutually resolve the problem, the issue will be resolved by the Court or its delegee on appropriate motion.

2. Imaging and document/data identification conventions.

- a. All documents shall be scanned as black and white images at 300 d.p.i. resolution and shall be saved and produced in a Group 4 compression multi-page “TIFF” format file on CD-ROMS.
- b. Each page of a document shall be scanned into an image and if a document is more than one page, the unitization of the document and any attachments and/or affixed notes shall be maintained as it existed in the original when creating the image file.
- c. Each page of the scanned document shall have a legible, unique document identifier electronically “burned” onto the image at a location that does not obliterate any information from the source document. There shall be no other legend or stamp placed on the document image unless a document qualifies for designation as confidential. In such case, a confidential designation may be “burned” onto the document’s image at a location that does not obliterate any information from the source document. No stamps, markers, or burned identifiers shall limit or interfere with the ability to OCR a translation of a document.

- d. Document identifiers shall be eight (8) digits in length, the first digit being a unique alpha character that denotes the identity of the producing party. Johnson & Johnson shall be denoted with the alpha character of “C” and Janssen Pharmaceutical will be denoted with the alpha character of “J”.
- e. Each document image file shall be named using a unique document identifier. The image file will be named with the unique document identifier of the first page of the corresponding document followed by the extension “.TIF.” If requested by plaintiffs, defendants shall cooperate and assist plaintiffs in renaming images at a later date upon reasonable request by plaintiffs. Renaming shall be at plaintiff’s reasonable expense.
- f. The producing party shall make every effort to produce electronic images in the same form as the original hard-copy documents are kept in the ordinary course of business. Custodial unitization of the documents as in a Redweld, box, file, binder, folder, etc., shall be identified in the datafile discussed in Section 3 hereof. If the custodial unitization of the original hard-copy documents are material to appreciating or comprehending the content of the documents, the parties shall honor reasonable requests for assistance in determining and understanding the discovery responses. In addition, at the time of production by defendants if there are any documents that defendants know will require inspection because the hard-copy is material to determining and understanding the discovery responses,

then the defendants shall, at that time, advise plaintiffs and provide the necessary assistance.

- g. Each CD-ROM of documents will be uniquely named with the producing party's unique alpha identifier, an incremental three digit number referencing the production set, followed by an underscore character and a three digit incremental number referencing the volume number within the production set (e.g., "J001_001", "J001_002"). The CD-ROM label shall be indicated on the physical volume label and as the electronic volume label for each media. Additional information to be displayed on the physical volume label includes text referencing the MDL information ("MDL No. 1355"), district court reference ("EDLA"), production date, Bates number range contained within the media volume and producing party. Additionally, each label will contain the notice: "NOTICE: Subject to Protective Order. This disk includes confidential documents which may not be viewed or disseminated except as provided by Protective Order."
- h. Document image files shall be placed on a CD-ROM within a subdirectory or subfolder structure bearing the same name as the CD-ROM they are located on so that files are not in the root directory of the CD-ROM. The subdirectory or subfolder structure bearing the same name as the CD-ROM may contain additional subdirectories or subfolders in which the document images are placed.

- i. If color is material to appreciating or comprehending the content of a document, parties shall honor reasonable requests for either the production of an original document for inspection and copying or production of a color image of the document.
 - j. Together with the objective coding to be provided in a datafile, the producing party shall produce Optical Character Recognition (OCR) text files for produced documents which do not contain redactions. The OCR shall be provided in ASCII text format and delivered on CD-ROM. The text files will be named with the unique document identifier of the first page of the corresponding document image file. The defendants shall certify and acknowledge that no tampering or obstruction of information in the OCR text file shall take place. Defendants, however will not certify to the reliability and accuracy of the OCR being representative of a particular document.
3. Together with each production of documents in accordance with the foregoing paragraph, the producing party shall produce a datafile setting forth the objective coding for each document produced which datafile will include the fields and type of content set forth on the attached Exhibit "A". The parties shall work with one another to see that produced documents can be accurately and efficiently accessed through a database using the datafile. If plaintiffs require assistance to reasonably utilize the datafile to populate the plaintiffs' database, the defendants will assist in providing reasonable information to encourage

meaningful discovery. Further, if plaintiffs object to information or format that is provided in the datafile, the defendants and plaintiffs will meet and confer to attempt to resolve such matters.

The content to be provided by defendants for the objective coding fields in the datafile shall be no less detailed than that same content used by the defendants for their own use. The datafile shall be provided by defendants in ASCII delimited format which shall permit plaintiffs to import and review informally using commercially available software, such as Concordance or Summation for the purpose of identifying, locating and reviewing documents. The defendants shall certify and acknowledge that no tampering or obstruction to information in the datafile shall take place. Defendants, however, will not certify as to the reliability and accuracy of the coding being representative of a particular document. Should plaintiffs need assistance in utilizing the datafile the defendants will cooperate to provide such assistance.

4. Upon reasonable request, the originals of any produced documents shall be made available for inspection by the requesting party in the form in which the documents are kept in the ordinary course of business, subject to the preservation of appropriate privileges and other protected interests.
5. The sequencing of production shall be addressed separately between Plaintiff's Liaison Counsel and Defense Liaison Counsel prior to any production.
6. This protocol shall not apply to electronic discovery which is still being discussed by the parties.

7. Nothing herein shall waive or abrogate any parties' rights as set forth in the Federal Rules of Civil Procedure.

New Orleans, Louisiana, this 18 day of January, 2001

/s/ Eldon E. Fallon
UNITED STATES DISTRICT JUDGE